

each and every one of the limitations of the claims, most notably independent claims 1, 4, and 9, save for a central bore formed through the upper and lower surfaces of the spacer body. In particular, the Examiner asserted Fraser as teaching an upper relative angle designation mark (the Examiner pointed to element 20 of FIG. 4) formed on an upper portion of the spacer body and a lower relative angle designation mark (the Examiner referred to element 21 on FIG. 4) formed on a lower portion of the spacer body. Still further, the Examiner noted that those elements would be visible with an insertion tool engaged to the spacer taught in Fraser. Applicants respectfully disagree with the Examiner's contentions.

Fraser specifically notes that slots 20 and 21 include widths "sufficient to enable an insertion tool to grasp the element 10, and position the element in its implantation site." See column 5, lines 63 through column 6 line 4. Despite the Examiner's contentions to the contrary in the Action, an insertion tool engaged with those slots would not allow them to be visible during an insertion process. Each of independent claims 1, 4 and 9 specifically requires that the relative angle designation marks be visible when the spacer is attached to an insertion tool, and this was a limitation added subsequent to a previous discussion with the Examiner. The Fraser reference does nothing to teach such a construction. Therefore, Applicants respectfully submit that even the combination of Fraser and Hamada fails to teach each and every one of the limitations of those independent claims. As such, a *prima facie* case of obviousness has not been made out.

Although not discussed specifically herein, the remaining claims are also not obviated by the combination of Fraser and Hamada, because they include each of the limitations of the

respective independent claims from which they depend. Moreover, such claims may in and of themselves include subject matter even more clearly not taught by the prior art, and Applicants reserve the right to argue such at a later date, if necessary. Therefore, Applicants respectfully request allowance of each and every one of the currently pending claims.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which she might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,  
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